



W.P.(MD).No.11835 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 08.05.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD).No.11835 of 2025

and

W.M.P.(MD).Nos.8736 and 8737 of 2025

Tvl.Kajah Enterprises (P) Ltd.,
Represented by its Director,
Mr.Abdul Gafoor.

.. Petitioner

Vs.

The Assistant Commissioner (Inspection) (ST-IU),
Office of the Joint Commissioner (ST-IU),
Tirunelveli.

.. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, calling for records pursuant to the impugned order of the respondent dated 28.03.2025 in Reference No. ZD330325238905C and quash the same and consequently direct the respondent to consider petitioner's rectification application under section 161 of TNGST Act filed on 11.03.2025, after affording the petitioner a reasonable opportunity of hearing.

For Petitioner : M/s.A.Lakshmi
for M/s.Polax Legal Solutions

For Respondent : Mr.M.Lingadurai
Special Government Pleader



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ORDER

The challenge in the Writ Petition is to the order passed in the Rectification Application.

2. Heard M/s.A.Lakshmi, learned counsel for the petitioner and Mr.M.Lingadurai, learned Special Government Pleader appearing for the respondent.

3. The learned counsel for the petitioner would contend that the petitioner had filed a Rectification Application of the Order of Assessment dated 06.01.2025 for the assessment year 2021-22, within the given time. However, the respondent, without assigning any reasons as to how the order of assessment does not suffer from any apparent error and that too without giving any opportunity of hearing, has rejected the application of rectification. Therefore, he would submit that the order impugned herein would have to be set aside with a direction to the respondent.

4. On the contrary, the learned Special Government Pleader would vehemently contend that the reasons need not be attributed in rejecting the rectification application. All that is required to be looked at by Authority as to

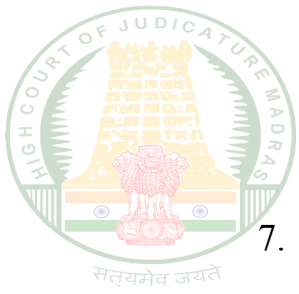


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whether based upon the rectification application, there had been an error apparent when the Authority had come to a conclusion and if there is no error apparent, the Authority can reject the Rectification Application without assigning reason. He would further submit that the Proviso appended to Section 161 of CGST Act mandating an opportunity of hearing would only arise, when the Assessing Officer *suo motu* initiates action for rectification and if such rectification order is detrimental to the interest of the assessee, only then an opportunity of hearing should be granted.

5. In the present case, an application had been made by the petitioner himself and in his application, he had not indicated the error apparent for the Assessing Officer to exercise his powers under Section 161 and therefore, he would submit that no interference is required and prays this Court to dismiss the Writ Petition with liberty to the petitioner to work out his remedy in the manner known to law.

6. I have considered the submissions made by the learned counsels appearing on either side and perused the materials available on record.



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7. It is an admitted fact that the petitioner had made a Rectification Application. The order of rectification, which is impugned, would indicate that for the reasons given in the annexure to the said order, the Rectification Application is rejected.

8. A perusal of the order does not also indicate that there had been no error apparent on the record to reject the rectification. There is also no reasonings as to why there is no error apparent on the face of the record. For this reason, the impugned order dated 28.03.2025 is liable to be set aside.

9. Even though, strenuous efforts had been made by the learned Special Government Pleader that no personal hearing need to be given when an application had been made at the instance of the assessee, I am not in agreement with the learned Special Government Pleader. The Proviso indicates that when an order is being made adverse to the assessee, then he should be given an opportunity of being heard when the rectification adversely affects any person. The principles of natural justice had been in-built by way of the 3rd Proviso to Section 161. If pursuant to a Rectification Application, if a rectification is made and if it adversely affects the assessee, 3rd Proviso contemplates an opportunity of hearing to be given. However, when a Rectification Application is made at



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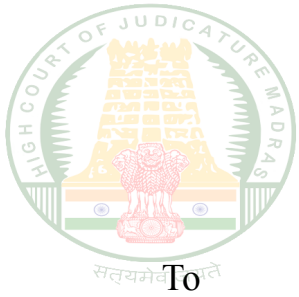
the instance of assessee and the rectification is being sought to be rejected without considering the reasons for rectification or by giving reasons as to why such rectification could not be entertained, it is also imperative that the assessee should be put on notice.

10. For the aforesaid reasons, I am inclined to hold that the order of rectification passed by the respondent dated 28.03.2025 is contrary to the provisions of Section 161 and in that aspect, the same alone is set aside. The Rectification Application filed by the petitioner shall be taken afresh by the respondent and after giving an opportunity to the petitioner, the respondent shall pass appropriate orders in accordance with law. If any such order is made in the Rectification Application, it is for the petitioner to work out his remedy in the manner known to law.

11. With the above observations, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

08.05.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm



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M.DHANDAPANI,J.

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